

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 07-cr-40020-JPG

GLADYS SHANEA WILSON,

Defendant.

MEMORANDUM AND ORDER

This matter comes before the Court on defendant Gladys Shanea Wilson’s (“Wilson”) motion for a free copy of the transcript of her sentencing (Doc. 189). Such a transcript has not been prepared by the court reporter. Wilson claims she needs these documents to prepare a motion under 28 U.S.C. § 2255.

A defendant has a right to a free transcript under limited circumstances. This right is dependent upon: (1) whether the defendant can establish that she is indigent, and (2) whether the transcript is needed to decide an issue presented by a pending and non-frivolous action. *See* 28 U.S.C. § 753(f). These requirements do not violate the Constitution. *See United States v. McCollum*, 426 U.S. 317 (1976) (court’s decision not to grant indigent federal prisoner unconditional right to obtain trial transcript for § 2255 proceeding does not violate due process or equal protection).

The Court finds Wilson has not made the showing this Court requires before it will order a transcript to be prepared for her free of charge. First, Wilson has failed to provide sufficient evidence that she is indigent and cannot pay for the transcript she requests. She has submitted no documentation of the current status of her finances. Therefore, she has failed to satisfy the

first requirement.

Secondly, and more importantly, the defendant has no pending matter before this Court. This Court, therefore, is unable to certify that she is pursuing a matter that is not frivolous or that transcripts are needed to decide the issue or issues presented by such a matter. *United States v. Hovarth*, 157 F.3d 131, 132 (2d Cir. 1998) (*per curiam*) (motion for free transcript not ripe until filing of § 2255 challenge to sentence); *Chapman v. United States*, 55 F.3d 390, 390-91 (8th Cir. 1995) (*per curiam*) (denial of transcript justified prior to filing of § 2255 challenge to sentence). If, at some point, the defendant should have an action pending before this Court, she may resubmit her request for a free transcript. At such time, the defendant will have the burden to establish (1) that she is indigent (such as by submitting an affidavit and a record of her prison trust fund account for the last six-months), and (2) that the transcripts are needed to decide a pending non-frivolous motion.

For the foregoing reasons, the Court hereby **DENIES** the motion (Doc. 189).

IT IS SO ORDERED.
DATED: January 12, 2009

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE